IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL, CIVIL JURISDICTION

WRIT PETITION LODG.NO.2520 OF 2006

Anil Vasantrai Upadhyay ..Petitioner

Vs.

Union of India & Ors. ..Respondents

Mr. Navroz Seervai, Senior Counsel i/b. Crawford
Bayley & Co., for the Petitioner.
Mr. Anjani Kumar Singh, for Respondent Nos. 1 and 2.

CORAM: F.I. REBELLO &
ANOOP V. MOHTA, JJ.
DATE: 13TH NOVEMBER,2006

P.C.

. Rule. Heard forthwith.

2. The petitioner is working as a Company Secretary of a Company known as Johnson & Johnson Limited. The petitioner was issued a Passport bearing No.A-2667405 issued by the Regional Passport Office, Mumbai on 24th February, 1997. The Passport was due to expire on 23rd February, 2007. It appears that a Criminal case has been registered against the petitioner under the provisions of the Essential Commodities Act along with other officers of the Company referred to above. As the petitioner's Passport was due to expire the petitioner has applied for renewal of his Passport to the relevant Passport Officer.

. Under the provisions of Section 6(2)(f) of the Passport Act, 1967 if there are proceedings pending, the Passport Authority shall refuse to issue a Passport. However, the Government of India has further issued a Notification dated 25th August, 1973 under which it is open to the Court before whom the proceedings are pending to direct issuance of Passport for the period specified in the order of the Court or if no period is specified then to issue it for a period of one year. The petitioner applied to the learned Magistrate who passed the following order on 20th September, 2006:-

> "The Regional Passport office, Mumbai is directed to renew the Passport of the applicant, as per the terms & conditions of Passport rules."

Rules have been framed under the Passport Act. Under Rule 12, a Passport other than for a child aged more than 15 years shall be in force for a period of 10 years or 20 years as the case may be from the date of its issue. It is, however, the contention of the respondents that as the order does not specify the period for which the Passport is issued, considering the Notification the petitioner is entitled for renewal of the Passport only for a period of one year.

3. Having heard learned Counsel for the parties we are of the opinion that the construction sought to be given by the respondent of the order of the Magistrate dated 28tgh September, 2006 is contrary to the express language of the order. When the order speaks about renewal of the Passport in terms of the Passport Rules, the order must mean to read under Rule 12. We are clearly, therefore, of the opinion that the Passport Officer is bound to issue the Passport either for a period of 10 years or for a period of 20 years as the case may be. That is the only discretion left in the Passport Officer. He cannot at any rate renew the passport for a period lesser than 10 years.

4. Considering the above, we direct the Regional Passport Officer, Mumbai, to issue Passport to the petitioner within four weeks from today for a period of 10 years or 20 years as he may decide.

5. Rule made absolute accordingly. There shall be no order as to costs.

(**F.I. REBELLO, J)**

(**ANOOP V. MOHTA J).**